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## **CHAPTER 40**

### **PROTOCOL FOR TRANSFER OF RECORDS WHEN COURT ABOLISHED**

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#### **I. COURTS ABOLISHED BY STATUTE AND SUCCESSOR COURTS CREATED**

When the General Assembly abolishes a court, the legislation abolishing the court directs how the records of the abolished courts are to be handled. For example, Sections 116, 117 and 118 of HEA 1266 (2011) abolished the Clark superior courts as of January 1, 2012, and the Henry superior court and the Madison superior court as of July 1, 2011. These sections provide that all cases and matters pending in these courts at the close of business on December 31, 2011 for Clark County and on June 30, 2011 for Henry and Madison counties shall be transferred to the new courts created in those counties on January 1, 2012 and July 1, 2011, respectively. All property and obligations of the abolished courts become the property and obligations of the newly created courts.

The Division of State Court Administration instructs that the best practice and the preferred procedure is for the pending cases that are transferred to the new courts be assigned new case numbers with the Administrative Rule 8 court identifier for the new courts. The new courts will count these cases as transferred-in cases on their Quarterly Case Status Reports. Cases that are in a “decided” status at the time the old courts are abolished, but are subsequently re-docketed in the newly established courts, should be re-assigned a new case number when they are re-docketed.

If the preferred procedure is not followed and the court identifier is not changed when the cases are transferred to the new courts, then a CCS entry must be made in each case explaining that by operation of law, the case was transferred from the abolished court to the new court as of the proper effective date, and all motions, pleadings, notices, process and orders filed or entered as of the date the case was transferred to the new court must contain the name of the newly established court in the caption.

#### **II. COURTS ABOLISHED BY CITY OR TOWN ORDINANCE**

[Ind. Code § 33-35-1-1](#) permits a second or third class city or a town to establish or abolish a city or town court by ordinance every 4<sup>th</sup> year after 2006. When such a court is abolished, the city or town is required to give notice of its action to the Division of State Court Administration.

When a city or town court is abolished, the standard policy of both the State Board of Accounts and the Division of State Court Administration is that the records of that court

are to be transferred to the clerk of the circuit court of the county in which the city or town court was located. Any unpaid tickets for cases that had been filed in the abolished court should be paid through the circuit court clerk. The outstanding tickets should be given new case numbers, but if possible to do so without creating conflicting case numbers, only the court identifier in the first group of characters in the case number should be changed. If changing only the court identifier would create conflicting case numbers, then an entirely new case number must be assigned.

Infraction and ordinance violation cases that are still pending at the time the city or town court is abolished should be assigned to a circuit or superior court in your county that DOES NOT handle infraction and ordinance violation cases under your county's required local caseload allocation rule.

The Division recommends that this procedure would be the most straightforward way to number and track any outstanding infraction or ordinance cases from the abolished city or town court, and would reduce the possibility of conflicting case numbers. For example, an unpaid ticket from a Town Court with a case number such as 91I01-1108-IF-0096 would be changed to 91C01-1108-IF-0096.

If it is necessary to transmit an SR 16 to the Bureau of Motor Vehicles under a new circuit or superior court case number to close an FTA or FTP that originated under a city or town court case number, and the FTA/FTP is not closed automatically due to the difference in the Court Case Number, a report will be generated by the BMV for manual review. If the BMV is satisfied that the SR 16 is a match to an existing FTA or FTP suspension, the BMV will manually close the suspension.

Misdemeanor cases that are still pending at the time the city or town court is abolished should be assigned to the circuit or superior court(s) in your county that handles misdemeanor cases under your county's local rule for assignment of criminal cases that is required by Ind. Criminal Rule 2.2.

Civil cases that are pending in a city court at the time the court is abolished should be assigned to a circuit or superior court that handles civil cases. When the case is assigned to a circuit or superior court, the case will retain the original case type that had been assigned to the case in the city court. Even if more than one court handles civil cases under the county's caseload allocation rule, all of the civil cases transferred from the city court should be assigned to a single court to facilitate tracking.

### **III. CITY AND TOWN COURT RECORDS THAT HAVE BEEN MAINTAINED ELECTRONICALLY**

All records, for which the retention periods have not expired under [Indiana Supreme Court Administrative Rule 7](#), if maintained electronically, must be printed out and transferred to the clerk of the circuit court. The Record of Judgments and Orders (Order Book) must be maintained permanently for all case types. Chronological Case Summaries (CCS) for Infraction Cases and Ordinance Violation Cases must be

maintained for 10 years after final disposition of the case. The CCS for all other case types must be maintained permanently.

If you have any questions or need any assistance, please contact the Division's Record Manager, Tom Jones, at [tom.jones@courts.in.gov](mailto:tom.jones@courts.in.gov), and he will be happy to work with you to resolve any issues that may arise.

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